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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	2:14-CV-00066-JAD-(NJK)
)	
2007 HARLEY-DAVIDSON)	
"ROAD KING" MOTORCYCLE, VIN)	
1HD1FR4167Y720245,)	
)	
Defendant.)	

DEFAULT JUDGMENT OF FORFEITURE AS TO THE 2007 HARLEY-DAVIDSON "ROAD KING" MOTORCYCLE, VIN 1HD1FR4167Y720245, HARLEY-DAVIDSON, INC., HARLEY-DAVIDSON FINANCIAL SERVICES, EAGLEMARK SAVINGS BANK (ALSO KNOWN AS "ESB"), UDELL WICKHAM, AND ALL PERSONS OR ENTITIES WHO CLAIM AN INTEREST IN THE 2007 HARLEY-DAVIDSON "ROAD KING" MOTORCYCLE, VIN 1HD1FR4167Y720245

I. FACTS

1. On five different occasions during the months of September and October of 2012, Udell Wickham, through an intermediary, sold an undercover law enforcement officer cocaine in multiple Las Vegas area bars and restaurants. The transactions would go as follows:

...

- 1 a. The intermediary would meet with the undercover officer, arrange a price for
- 2 the cocaine, and collect the funds from the officer to pay for the drugs.
- 3 b. Wickham would arrive at the local bar or restaurant and meet with the
- 4 intermediary.
- 5 c. The intermediary would exchange with Wickham money for cocaine and then
- 6 the intermediary would pass the drugs along to the undercover officer. On one
- 7 occasion, Wickham gave the drugs directly to the officer himself after
- 8 receiving the money from the intermediary.
- 9 d. The cocaine sold in the transactions was between a quarter pound to one
- 10 ounce in size, and varied in price from \$2,800 to \$700 per transaction.

11 2. On four of the five occasions when the drug transactions occurred, Wickham sat and
12 conversed with both the intermediary and the undercover officer. On one of these occasions,
13 Wickham noted to the other two that many of the patrons in the restaurant were his cocaine
14 customers. On another, they all spoke of the prospects of selling larger quantities of cocaine in the
15 future.

16 3. During three of the transactions, officers observed Wickham riding his motorcycle
17 before or after the drug deals or observed his motorcycle parked in the parking lot. After being paid
18 for the drugs on one occasion, Wickham told the undercover officer that the drugs were outside
19 stored in his motorcycle and that he would go get them. Wickham was then observed, by a second
20 officer stationed outside the restaurant, going to his motorcycle and retrieving something from it.
21 Officers believed what he retrieved were the drugs he later sold to the undercover officer through the
22 intermediary.

23 4. On October 11, 2013, Wickham swore in his administrative claim that his motorcycle
24 is an "important" means of transportation and that he uses it daily to commute to work and run
25 "everyday" errands.

26 5. On June 19, 2013, a federal grand jury in this district (Las Vegas Division) indicted
27 Wickham for distribution of a controlled substance and conspiracy to distribute a controlled
28 substance.

1 **II. PROCEDURE**

2 6. The United States filed a verified Complaint for Forfeiture in Rem on January 14, 2014.
3 Complaint, ECF No. 2. The Complaint (ECF No. 2) alleges the defendant property:

4 a. was used or intended to be used to transport, or in any manner, facilitate the
5 transportation, sale, receipt, possession, or concealment of a controlled
6 substance in violation of Title II of the Controlled Substances Act, 21 U.S.C.
7 801 *et seq.*, and is subject to forfeiture to the United States pursuant to 21
8 U.S.C. § 881(a)(4).

9 7. On March 14, 2014, the Court entered an Order for Summons and Warrant of Arrest in
10 Rem for the Property and Notice and issued the Summons and Warrant of Arrest in Rem. Order for
11 Summons and Warrant, ECF No. 5; Summons and Warrant, ECF No. 6.

12 8. Pursuant to the Order (ECF No. 5), the Complaint (ECF No. 2), the Order (ECF No. 5),
13 the Summons and Warrant (ECF No. 6), and the Notice of Complaint for Forfeiture (ECF No. 7, p. 5-
14 6, ECF No. 10 p. 14-16, and ECF No. 12, p. 3-4) were served on the 2007 Harley-Davidson “Road
15 King” Motorcycle, VIN 1HD1FR4167Y720245 and all persons claiming an interest in the 2007
16 Harley-Davidson “Road King” Motorcycle, VIN 1HD1FR4167Y720245. Notice was published
17 according to law.

18 9. Pursuant to Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture
19 Actions (“Fed. R. Civ. P. Supp. Rule”) G(5), all persons interested in the defendant property were
20 required to: (1) file a verified claim, setting forth the person’s or its interest in the property, that (a)
21 identifies the specific interest in the property claimed, (b) identifies the claimant and states the
22 claimant’s interest in the property, and (c) is signed by the claimant under penalty of perjury pursuant
23 to 28 U.S.C. § 1746; (2) file the verified claim with the Clerk of the above-entitled Court no later than
24 35 days after the notice is sent or, if direct notice was not sent, no later than 60 days after the first day
25 of publication on the official internet government forfeiture site, www.forfeiture.gov; (3) file an
26 answer to the Complaint for Forfeiture in Rem or a motion under Rule 12 with the Clerk of the Court,

1 Lloyd D. George United States Courthouse, 333 Las Vegas Boulevard South, Las Vegas, NV 89101,
2 no later than 21 days after filing the verified claim; and (4) serve a copy of the verified claim and the
3 answer at the time of each filing on Michael A. Humphreys, Assistant United States Attorney, Lloyd
4 D. George United States Courthouse, 333 Las Vegas Boulevard South, Suite 5000, Las Vegas, Nevada
5 89101. Complaint, ECF No. 2; Order for Summons and Warrant, ECF No. 5; Summons and Warrant,
6 ECF No. 6; Notice of Complaint, ECF No. 7, p. 5-6, ECF No. 10 p. 14-16, and ECF No. 12, p. 3-4.

7 10. Public notice of the forfeiture action and arrest was given to all persons and entities by
8 publication via the official internet government forfeiture site, www.forfeiture.gov, from October 1,
9 2014, through October 30, 2014. Notice of Filing Proof of Publication, ECF No. 11.

10 11. On April 2, 2014, the United States Marshals Service served the Complaint, the Order,
11 the Summons and Warrant of Arrest in Rem for the Property, and the Notice by executing them on the
12 defendant property. Notice of Filing Service of Process, ECF No. 7, p. 3-21.

13 12. On September 30, 2014, Keith E. Wandell, Chairman, President, and CEO of Harley-
14 Davidson, Inc., 3700 W. Juneau Avenue, Milwaukee, Wisconsin 53208, was served by regular and
15 certified return receipt mail with the Complaint, the Order, the Summons and Warrant of Arrest in
16 Rem for the Property, and the Notice. Notice of Filing Service of Process – Mailing, ECF No. 10, p. 3-
17 6 and 14-28.

18 13. On September 30, 2014, C T Corporation System, Registered Agent for Harley-
19 Davidson, Inc., 8020 Excelsior Dr. Ste. 200, Madison, Wisconsin 53717, was served by regular and
20 certified return receipt mail with the Complaint, the Order, the Summons and Warrant of Arrest in
21 Rem for the Property, and the Notice. Notice of Filing Service of Process – Mailing, ECF No. 10, p. 7-
22 10 and 14-28

23 14. On September 30, 2014, Harley-Davidson Financial Services, 1801 Alma Dr. Ste. 200,
24 Plano, Texas 75075-6919, was served by regular and certified return receipt mail with the Complaint,
25 the Order, the Summons and Warrant of Arrest in Rem for the Property, and the Notice. Notice of
26 Filing Service of Process – Mailing, ECF No. 10, p. 11-28.

1 15. On December 4, 2014, Assistant United States Attorney Michael A. Humphreys
2 contacted Eaglemark Savings Bank, also known as ESB, by telephone. The ESB representative
3 answered "Harley-Davidson Financial Services." When the ESB representative was asked whether she
4 represented ESB or Harley-Davidson Financial Services, she replied that they were both "the same
5 thing." Further inspection of materials earlier provided to the ATF and United States Attorney's Office
6 by ESB, as well as an internet research of business records, revealed that ESB is a subsidiary of
7 Harley-Davidson Financial Services, with both having the same address of 1801 Alma Dr. Ste. 200,
8 Plano, Texas 75075-6919. Amended Notice of Filing Service of Process – Mailing, ECF No. 13.

9 16. On October 29, 2014, Udell Wickham, 3816 Avila St., Las Vegas, NV 89103, was
10 personally served with the Complaint, the Order, the Summons and Warrant of Arrest in Rem for the
11 Property, and the Notice. Notice of Filing Service of Process – Personal Service, ECF No. 12.

12 17. No person or entity has filed a claim, answer, or responsive pleading within the time
13 permitted by 18 U.S.C. § 983(a)(4) and Fed. R. Civ. P. Supp. Rule G(4) and (5).

14 18. Udell Wickham is not in the military service within the purview of the Servicemen's
15 Civil Relief Act of 2003. Exhibit 1.

16 19. Udell Wickham is neither a minor nor an incompetent person.

17 20. On December 8 2014, the United States filed a Motion for Entry of Clerk's Default
18 against: (1) the 2007 Harley-Davidson "Road King" Motorcycle, VIN 1HD1FR4167Y720245; (2)
19 Harley-Davidson, Inc.; (3) Harley-Davidson Financial Services; (4) Eaglemark Savings Bank (also
20 known as "ESB"); (5) Udell Wickham; and (6) all persons or entities who claim an interest in the 2007
21 Harley-Davidson "Road King" Motorcycle, VIN 1HD1FR4167Y720245 in the above-entitled action.
22 Motion for Entry of Clerk's Default, ECF No. 14.

23 21. On December 9 2014, the Clerk of the Court entered a Default against: (1) the 2007
24 Harley-Davidson "Road King" Motorcycle, VIN 1HD1FR4167Y720245; (2) Harley-Davidson, Inc.;
25 (3) Harley-Davidson Financial Services; (4) Eaglemark Savings Bank (also known as "ESB"); (5)
26 Udell Wickham; and (6) all persons or entities who claim an interest in the 2007 Harley-Davidson

1 “Road King” Motorcycle, VIN 1HD1FR4167Y720245 in the above-entitled action. Entry of Clerk’s
2 Default, ECF No. 15.

3 **III. JUDGMENT**

4 22. Pursuant to Fed. R. Civ. P. 54(c) and 55(b), the judgment by default does not “differ in
5 kind from, or exceed [the] amount” of relief listed in the complaint for forfeiture.

6 **IV. DEFAULT AND ENTRY OF DEFAULT**

7 23. As shown above, the United States has requested entry of Clerk’s Default against: (1)
8 the 2007 Harley-Davidson “Road King” Motorcycle, VIN 1HD1FR4167Y720245; (2) Harley-
9 Davidson, Inc.; (3) Harley-Davidson Financial Services; (4) Eaglemark Savings Bank (also known as
10 “ESB”); (5) Udell Wickham; and (6) all persons or entities who claim an interest in the 2007 Harley-
11 Davidson “Road King” Motorcycle, VIN 1HD1FR4167Y720245 in the above-entitled action (ECF
12 No. 14). The Clerk entered the Default as requested (ECF No. 15).

13 **V. NOTICE**

14 24. Pursuant to Fed. R. Civ. P. Supp. Rule G(4)(a)(iv)(C), the United States published
15 notice via the official internet government forfeiture site, www.forfeiture.gov, for thirty consecutive
16 days. See above. Pursuant to Fed. R. Civ. P. Supp. Rule G(4)(b), the United States served the
17 Complaint, the Order for Summons and Warrant of Arrest in Rem for the Property and Notice, the
18 Summons and Warrant of Arrest in Rem for the Property, and the Notice of Complaint for Forfeiture
19 and Arrest on all known potential claimants. See above.

20 **VI. LEGAL SUFFICIENCY OF THE COMPLAINT**

21 25. The Complaint filed in this action was verified. The Court has subject matter
22 jurisdiction, in rem jurisdiction over the 2007 Harley-Davidson “Road King” Motorcycle, VIN
23 1HD1FR4167Y720245, and venue. The Complaint described the property with reasonable
24 particularity. The Complaint states where the seizure of the 2007 Harley-Davidson “Road King”
25 Motorcycle, VIN 1HD1FR4167Y720245 occurred and its current location. The Complaint identifies
26 the statute under which the forfeiture action is brought. The Complaint alleges sufficiently detailed

1 facts to support a reasonable belief that the United States will be able to meet its burden proof at trial.

2 See facts above. Complaint, ECF No. 2. Fed. R. Civ. P. Supp. Rule G(2).

3 26. The allegations of the Complaint are sustained by the evidence and are adopted as
4 findings of fact. The Court concludes as a matter of law that the United States is entitled to the relief
5 requested in the Complaint.

6 **VII. POTENTIAL CLAIMANTS**

7 27. No person has filed a claim and the time to file a claim has passed.

8 28. Based on the foregoing this Court finds that the United States has shown its entitlement
9 to a Default Judgment of Forfeiture as to: (1) the 2007 Harley-Davidson "Road King" Motorcycle,
10 VIN 1HD1FR4167Y720245; (2) Harley-Davidson, Inc.; (3) Harley-Davidson Financial Services; (4)
11 Eaglemark Savings Bank (also known as "ESB"); (5) Udell Wickham; and (6) all persons or entities
12 who claim an interest in the 2007 Harley-Davidson "Road King" Motorcycle, VIN
13 1HD1FR4167Y720245.

14 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
15 Default Judgment of Forfeiture is entered against: (1) the 2007 Harley-Davidson "Road King"
16 Motorcycle, VIN 1HD1FR4167Y720245; (2) Harley-Davidson, Inc.; (3) Harley-Davidson Financial
17 Services; (4) Eaglemark Savings Bank (also known as "ESB"); (5) Udell Wickham; and (6) all persons
18 or entities who claim an interest in the 2007 Harley-Davidson "Road King" Motorcycle, VIN
19 1HD1FR4167Y720245 in the above-entitled action.

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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the 2007 Harley-Davidson
2 "Road King" Motorcycle, VIN 1HD1FR4167Y720245 be, and the same is hereby forfeited to the
3 United States of America, and no right, title, or interest in the property shall exist in any other party.

4 IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was reasonable
5 cause for the seizure or arrest of the defendant property.

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7 
UNITED STATES DISTRICT JUDGE

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9 DATED: September 14, 2015
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